IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.135 OF 1998

HSBC Batlivala & Karani
Securities (Holdings) Pvt Ltd. ...Plaintiff

Versus

Reliance Industries Ltd & Ors. ...Defendants

Ms N.Shinde i/by M/s.Solomon & Co for the Plaintiff.

Shri Vipul Shukla for the Defendant No.1.

CORAM : ABHAY S.OKA, J.
DATED : AUGUST 24, 2007.

ORAL JUDGMENT:

1. The suit is listed under the caption of "Undefended Suits for Exparte Decree". The case of the Plaintiff is that 2nd to 19th Defendants are registered holders of 1587 shares of the 1st Defendant Company. The 2nd to 19th Defendants sold the said shares on the stock exchange. The particulars of the shares allegedly held by the said Defendants have been incorporated in Exhibit 'A' to the plait. On the sale of the said shares, the said Defendants signed and delivered share transfer forms alongwith the original share certificates in respect of said shares. The said shares were purchased by the Credit Capital Investment Trust Company Ltd through their custodians Citi Bank N.A., on the stock exchange. The name of the said Credit Capital Investment Trust Company Ltd was filled in as

transferees in transfer forms signed and delivered by 2nd to 19th Defendants. The shares and the transfer forms were duly lodged with the 1st Defendant. The said transfer forms with shares certificates were returned on account of mismatch of the signatures of the transferors.

2. According to the case of the Plaintiff on settlement of accounts between the Plaintiff and the said Credit Capital Investment Trust Company Ltd. The Plaintiff took over the said shares from the said Company and the said Company delivered to the Plaintiff the original shares alongwith share transfer forms signed by the 2nd to 19th Defendants and the letter of the transfer agents of the 1st Defendant returning the same on account of mismatch of signatures. The letter dated 13th December, 1997 was sent by the Citi Bank N.A on behalf of the said Company confirming that the Plaintiff had taken over the shares and had become entitled to the said shares and the Plaintiff is entitled to have the said shares transferred in its name and to all the rights and benefits in respect thereof. In the meanwhile, the 1st Defendant declared bonus shares in the ratio of 1:1.

3. The Plaintiff by Advocate’s letter called upon

the 2nd to 19th Defendants to sign and return the said transfer forms for completing the transfer of the said shares to the name of the Plaintiff. On the same day i.e 13th December, 1997 the Plaintiff by a letter called upon the 1st Defendant to note that the Plaintiff has become the owner of the said shares and all the bonus shares.

4. The suit is filed for declaration that the Plaintiff is the beneficial owner of the said shares of the 1st Defendant more particularly described in Exhibit 'A' to the plaint and of all the benefits including dividends for the year 1995-96 and 1996-97 and bonus shares and right shares accrued and that may be accrued thereon. A further decree is prayed for seeking various directions against the 2nd to 19th Defendants regarding execution and delivery of transfer forms etc.

5. In a Notice of Motion taken out by the Plaintiffs, an order was passed on 02nd February, 1998 recording the statement of the counsel for the 1st Defendant that the bonus shares were not yet dispatched. The 1st Defendant was directed to keep in abeyance disbursement to dividend till the Notice of Motion was heard finally. By order dated 12th February, 2000 the Notice of Motion was finally disposed of by granting

interim relief in terms of prayer clauses (a) and (b) thereof.

6. The order dated 22nd February, 2006 passed by the learned Prothonotary and Senior Master records that suit has been allowed to be withdrawn as against the 18th and 19th Defendants.

7. The 1st Defendant Company has filed written statement. The 1st Defendant has set out in the written statement that the Company is not aware of and therefore was not admitting the case made out by the Plaintiff as regards acquisition of the said shares. In the written statement it is stated that dividend for the year 1995-96 and 1996-97 was already sent to the registered holders. The other Defendants have not filed written statement.

8. The Plaintiff has tendered on recorded an affidavit of evidence of Mr.A.H.Bhikaji, a Director of the Plaintiff. In the said affidavit it is stated that he is conversant with the facts of the case. The affidavit is marked "X" for identification and is taken on record. The Plaintiff has also tendered on record various documents alongwith a compilation. The said compilation is marked "Y" for identification and is

taken on record.

9. A chart showing details of the shares held by the 2nd to 19th Defendants has been annexed as Exhibit ‘A’. The documents which are tendered alongwith compilation have been proved by the said affidavit of the Plaintiff. The Plaintiff has produced letter dated 13th December, 1997 sent by the Citi Bank. The said letter records that on settlement of accounts, the Plaintiff has become entitled to the 1587 equity shares of the 1st Defendant. The said letter also records that the transfer deeds and share certificates in respect of aforesaid shares alongwith objection memo have been handed over to the Plaintiff. The said letter records that the Plaintiff became owner of the said shares including the dividends and rights and benefits thereof including the right to recover and receive the dividends thereon for the year 1995-96 and 1996-97. The said letter has been duly proved by the said affidavit. The said letter establishes the case of the Plaintiff of having become owner of the said shares together with dividends as well as the rights and benefits in respect of shares. The office copies of the letters sent by the advocate for the Plaintiff to the 2nd to 19th Defendants have been also placed on record and proved by the Plaintiff. In view of the averments made in the plaint

and what is stated in affidavit of evidence, the claim of the Plaintiff in respect of the said shares held by 2nd to 17th Defendants has been established.

10. The Plaintiff is entitled to a decree in terms of prayer clauses (a) to (d). However, there will be a modification to extent that the 1st Defendant will not be liable to pay dividends for the year 1995-96 and 1996-97.

11. Hence, the suit is decreed in terms of prayer clauses (a) to (d) as against 1st to 17th Defendants in respect of shares held by the 2nd to 17th Defendants. It is clarified that the 1st Defendant will not be liable to pay the dividend for the years 1995-96 and 1996-97. The 2nd to 17th Defendants are directed to pay proportionate costs of the suit to the Plaintiff. There will be no orders as to costs against the 1st Defendant.

12. Certified copy is expedited.

JUDGE